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April 9, 2020

Via ECF

The Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *United States v. Teman*, case no. 1:19-cr-696

Dear Judge Engelmayer:

Pursuant to your “individual rules of practice in criminal cases,” this letter serves as the Defendant Ari Teman’s request for the Court to authorize disclosure of the grand jury transcripts under Fed. R. Crim. P. 6(e)(3)(E)(i) & (ii).

Teman has continuously argued that the indictment was constructively amended, and the Government did not prove what was alleged in the indictment, *viz.* that Teman deposited “counterfeit checks.” However, the Court made the following observation at trial:

Look, let me offer this thought: If what you’re suggesting is that there might have been a mischaracterization of what was put before the grand jury, in the event of a conviction in this case, I expect there will be post-trial motions. You’re at liberty to seek the Court’s ~ to invite the Court to review the grand jury transcript to test that proposition.

Tr. 888-889.

The parties have a profound disagreement as to what the grand jury indicted Teman on, and by necessary extension, what the Government had to prove in its case in chief. *See Stirone v. United States*, 361 U.S. 212, 217 (1960) (criminal defendants have a substantial right to be tried only on charges presented in an indictment returned by a grand jury).

The Government claims that “unauthorized” was the term used before the grand jury and that “counterfeit” was just a stylistic choice in the verbiage in the indictment. There can only be one way of ascertaining the truth – disclosure under Rule 6(e).

Accordingly, the Court should enter an order authorizing the disclosure under Rule 6(e)(3)(E)(i) and/or (ii) and permit Teman and the Court to review the grand jury transcripts to verify whether Teman was convicted on what the grand jury indicted him on.

Kind Regards,

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/s/ Joseph A. DiRuzzo, III Digitally signed by /s/ Joseph A. DiRuzzo, III
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Joseph A. DiRuzzo, III

JAD/

cc: AUSA K. Bhatia, via ECF
AUSA E. Imperatore, via ECF
J. Gelfand, via ECF